



## RAILROAD RETIREMENT BOARD

20 CFR Part 295

RIN 3220—AB69

### **Payments Pursuant to Court Decree or Court-Approved Property Settlement**

**AGENCY:** Railroad Retirement Board.

**ACTION:** Proposed Rule.

**SUMMARY:** The Railroad Retirement Board (Board) proposes to amend its regulations addressing who may receive a portion of an employee annuity due to a former spouse of a railroad annuitant under a court decree of divorce or court-approved property settlement, but which was unpaid at the time of the former spouse's death. The current regulation states that the Board will follow the priority order provided for employee annuities unpaid at death in Section 234.1 of the Board's regulations. The proper section pertaining to employee annuities due but unpaid at death is located in Section 234.31 of the Board's regulations. This amendment is necessary to insert the correct section reference.

**DATES:** Submit comments on or before (INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.)

**ADDRESSES:** You may submit comments, identified by 3220-AB69, by any of the following methods:

1. Internet – Send comments via e-mail to [SecretarytotheBoard@rrb.gov](mailto:SecretarytotheBoard@rrb.gov)
2. Fax – (312) 751-7102.
3. Mail – Secretary to the Board, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois, 60611-2092.

Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to RIN number 3220-AB69.

Caution: You should be careful to include in your comments only information that you wish to make publicly available as comments are made public without change, with any personal information provided. The Board strongly urges you not to include in your comments any personal information, such as Social Security numbers or medical information.

**FOR FURTHER INFORMATION CONTACT:**

Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611-2092, (312) 751-4945, TTD (312) 751-4701.

**SUPPLEMENTARY INFORMATION:****Background Information**

The Railroad Retirement Act (RRA) provides monthly annuities for railroad employees based on age and years of service in the railroad industry. Section 14(b)(2) of the RRA [45 U.S.C. §231m(b)(2)] provides that portions of an employee annuity calculated under sections 2(b), 3(b), 3(f), and 3(h) of the RRA [45 U.S.C. §231a(b), 231b(b), 231c(f), and 231c(h)] may be characterized as community property and subject to distribution in accordance with a court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement incident to any such court decree. The current version of Board regulations at Title 20 of the Code of Federal Regulations, Part 295, sections 295.1-7 implement this provision.

The current version of section 295.5(d) of the Board's regulations explains that payments to a spouse or former spouse pursuant to a court order will not be made to the heirs, legatees, creditors, or assignees of a deceased spouse or former spouse. Any annuity amounts due to the spouse or former spouse but unpaid at the time of the spouse or former spouse's death will be made in accordance with the Board's regulations governing payments of employee annuities due but unpaid at the death of the employee. At the time section 295.5(d) was published in the Federal Register, the Board regulations governing employee annuities due but unpaid at death were found in section 234.1 of the Board's regulations. Part 234 of the Board's regulations has since been amended and the section governing employee annuities due but unpaid at death is now designated as section 234.31 of the Board's regulations.

### **Proposed Changes**

We propose to amend section 295.5(d) of the Board's regulations to provide the correct cross-reference to the section of the Board's regulations governing employee annuities due but unpaid at death. This change is not intended to be substantive.

## Clarity of This Proposed Rule

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this proposed rule, we invite your comments on how to make it easier to understand.

For example:

- Are the requirements for the rule clearly stated?
- Have we organized the material to meet your needs?
- What else could we do to make the rule easier to understand?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format make the rule easier to understand?

## When will we start to use this rule?

We will not use this rule until we evaluate public comments and publish a final rule in the **Federal Register**. All final rules we issue include an effective date. We will continue to use our current rules until that date. If we publish a final rule, we will include a summary of relevant comments we received, if any, and

responses to them. We will also include an explanation of how we will apply the new rule.

## **Regulatory Procedures**

### *Executive Order 12866, as Supplemented by Executive Order 13563*

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, no regulatory impact analysis is required.

### *Regulatory Flexibility Act*

The Board certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

*Paperwork Reduction Act*

This Proposed Rule imposes no reporting or recordkeeping requirements subject to OMB clearance.

**List of Subjects**

*20 CFR Part 295*

Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to amend title 20, chapter II, subchapter B, part 295 of the Code of Federal Regulations as follows:

**PART 295 – Payments Pursuant to Court Decree or Court-Approved Settlement**

1. The authority citation for part 295 continues to read as follows:

Authority: 45 U.S.C. 231f; 45 U.S.C. 231m.

**§295.5 [Amended]**

2. Amend §295.5 to revise paragraph (d) to read as follows:

§295.5        Limitations.

\* \* \* \* \*

(d) *Payees.* Payment of an amount awarded to a spouse or former spouse by a court decree or property settlement will be made only to the spouse or former spouse except where the Board determines that another person shall be recognized to act on behalf of the spouse or former spouse as provided in Part 266 of the chapter, relating to incompetence. Payment will not be made to the heirs, legatees, creditors or assignees of a spouse or former spouse, except that where an amount is payable to a spouse or former spouse pursuant to this part, but is unpaid at the death of that spouse or former spouse, the unpaid amount may be paid in accordance with §234.31 of this chapter, pertaining to employee annuities unpaid at death.

\* \* \* \* \*

Dated: December 6, 2016

By Authority of the Board

Martha P. Rico

Secretary to the Board

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